

D&P

DATE: 1/20/2011 9:10:58 PM

German D. Planco
Reg # 66972-004
M.D.C. Brooklyn
P.O. Box 329002
Brooklyn, New York. 112

Date:

THE HONORABLE DAVID G. TRAGGER,
UNITED STATES DISTRICT JUDGE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

RE: UNITED STATES V. GERMAN D. POLANCO
CASE No 07-0780 (DGT)
REASONS FOR GRANTING REQUESTED SUBPOENAS

Dear Judge Tragger:

With the utmost respect for the Court, following Your Honor's indications and grateful for the opportunity given at the previous Court appearance (Your Honor granted me 60 days to directly set forth the reasons why it is imperative that, in the interests of justice, these requested subpoenas be granted), I am, hereby, presenting the Court with the following:

REASONS FOR THE REQUEST

My request to this Honorable Court is that, an order be entered allowing the appearances of Mr. Douglas Gurut (hereinafter, a/k/a Ronnie Chavez), Mr. Joseph Orejuela (a/k/a Tabla), and Thomas Rojas (a/k/a Francisco Solis) to, under oath before Your Honor, render their same testimonies they gave to prosecutor's investigators long before the starting of the trial, of which, in fact, the government refused to disclose because, the testimonies of these individuals completely changes the theory of the prosecution and, clearly exposes the manufactured false accusations of the government's star witness, Mr. Carlos Medina. (See, EXHIBIT "S-1" and EXHIBIT "S-2")

It should be noted that the exculpatory material was never disclosed by the Government. On the contrary, the Government retained the content of those testimonies, thus denying the defense the opportunity to demonstrate my total and absolute innocence of the charges conveniently posed by the government's star witness, Mr. Carlos Enrique Medina

It is of vital importance that Your Honor grants me this request in order to have the above named individuals present their testimonies to, with the truth, discredit and expose all the false accusations that Mr. Medina told the jury with the complicity of the Government that, already had withheld exculpatory material and knew that its star witness was lying under oath, and allowed the jury to continue listening to the fabricated false accusations of its star witness.

It is also necessary to clarify that the government had not only withheld exculpatory evidence, but knew that Mr. Douglas Gurut (a/k/a Ronnie Chavez) and Mr. Joseph Orejuela (a/k/a Tabla) were under its jurisdiction in federal prisons on charges unrelated to this case.

Your Honor, my reasons for the unorthodox way in which I am making my request is because, as I have expressed to the court in my previous communications, I am not a lawyer nor do I have formal training in legal matters; and as previously indicated in my recent request for re-assignment of counsel, my attorney do not answer my phone calls, and do not respond to my letters. (See, EXHIBIT "S-3")

I am asking Your Honor to allow me to invoke all the rules that protect my rights so that, when applicable, I may in this or in another court, make a fair and reasonable claim for all legal violations that might arise from this process. (Unfortunately, I lack the legal knowledge to name any legal Rule or legal authority)

COMPLAINED PREJUDICE

I am respectfully asking this Court to, prior to enter a decision on the foregoing petition, consider the following:

(1) That if this request is denied, then I will also be denied the opportunity to have Douglas Gurut (a/k/a Ronnie Chavez), Mr. Joseph Orejuela (a/k/a Tabla), and of Mr. Thomas Rojas (a/k/a Francisco Solis) render their testimonies before this Court within the next five months, I, German Polanco, will lose the opportunity to prove my innocence with exculpatory material from one of these witness because, Mr. Douglas Gurut (a/k/a Ronnie Chavez) will be placed under the ICE Jurisdiction for deportation purposes approximately on 06-25-2011 (Mr. Gurut's scheduled release date); and I will never have the opportunity to present Mr. Gurut's testimony in this or in another court.

(2) That if this request is denied, then I could never be able to prove that the government intentionally withheld and failed to disclose exculpatory material that the above mentioned individuals surrendered to the Government Investigating Officers during the course of the investigations long before the starting of the trial.

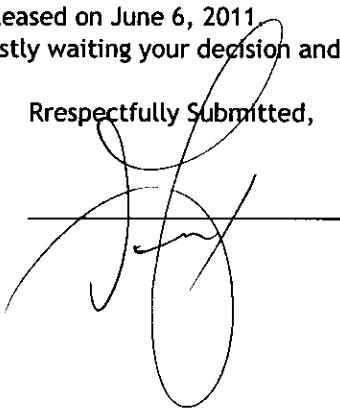
(3) That if this request is denied, it will be very difficult to prove that my right to a fair trial were violated repeatedly by Government's actions i.e, when it withheld exculpatory evidence obtained during the course of Mr. Douglas Gurut's investigation and from statements made by him. In addition, when Government's investigators questioned Mr. Gurut and heard that, Mr Gurut completely denied the false claims of the government's star witness, Carlos Medina, the Government's officers, repeatedly, tried to bribe Mr. Douglas Gurut (trying to convince Mr. Gurut to falsely testify against German Polanco at trial) offering him time served out a period of time left to do in an unrelated case; and the Government's agents also offered Mr. Gurut to bring his wife and daughter into the United States if he falsely testified against me, Germain D. Polanco at my trial. Mr. Douglas Gurut refused the Government Agent's offers and refused to participate in such injustice (to falsely testify against German Polanco). The Government Agents then became angry and aggressive and proceeded to intimidate Mr. Gurut with threats if he went on to testify for the defense in German Polanco's trial. (See, EXHIBIT "S-2")

As you can see, Your Honor, the prejudice resulting from the illegal government tactics in this case amounts to violations of my Constitutional rights, but, if I am not allowed to obtain the material evidence readily available to prove said government's illegal tactics, such denial might constitute a compound violation of my rights. I do not know how to invoke my rights. I just want to prove my innocence and to legally defend myself from these false accusations. Although my formal education is extremely limited, I have done everything within my power to get to be heard, but all my efforts have been fruitless (I have gathered material evidence of all my claims and affirmations such as: Tape-recordings made by Private Investigators, and Transcripts of the testimonies of several witnesses directly involved in the case) but, for my limited academic education, my lack of command of the language, lack of effective representation and my lack of knowledge of my rights, all my attempts to prove my innocence had been a vain effort. The Government has used practices adverse to the rules of law to, that way, find me guilty of these false charges.

For the above stated reasons, I am respectfully asking this Court to grant the foregoing request by allowing these material witnesses to be heard, even out of time of when it really their testimonies should have been presented. It is important to emphasize that, the Government is responsible for the delay in the presentation of these witnesses for the defense because, the Government retained and failed to disclose the content of the statements made by the above named individuals to Government investigators. Most important, the testimonies of these witness would completely change the alleged theory of the prosecution's case and will expose the fabrication of charges incurred by the government with the lies of it star witness, Carlos Medina. Your Honor, I understand that at this point, the testimonies of these individuals do not change the verdict, but accepting that these witness be questioned before, or by Your Honor, will allow that their testimonies become part of my record. Furthermore, the acceptance of this request could save unnecessary expenses to the Government for a possible future requests to bring said witnesses from overseas to be heard in a possible future trial. At this time Mr. Douglas Gurut (a/k/a Ronnie Chavez) and Mr. Joseph Orejuela (a/k/a Tabla) are under the jurisdiction of the Attorney General in a federal prisons. Mr. Gurut is presently scheduled to be released on June 6, 2011.

Earnestly waiting your decision and thanking you for your time and concern,

Respectfully Submitted,



German Polanco, Pro-Se

TO: 66972004
SUBJECT: EXHIBIT "S-1" PRIMERA PAGINA
DATE: 1/22/2011 8:07:51 PM

German D. Polanco
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P.O Box 329002

Brooklyn N.Y 11232

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RE: UNITED STATES V. GERMAN POLANCO

CASE No. 07-0780 (DGT)

Honorable David Trager:

As above indicated, my name is German Dario Polanco, and I am presently incarcerated at the Metropolitan Detention Center, located in Brooklyn, N.Y., for a judgment of conviction (after a trial by jury) for violation of the laws related to conspiracy to commit murder. I am directing my correspondence to you to, respectfully, inform Your Honor of some of the many irregularities that took place during the course of my criminal trial (before Your Honor). It appears that, the two prosecutors assigned to my case, Ms. Licha Nyiendo and Mr. Robert Capers, abused their power. Their abuse of power include: Intimidation of witnesses (family members of the victims). The prosecutor's action of intimidation was intended to prevent Mr. Thomas Rojas (A.K.A Francisco Solis) from testifying in my trial on my behalf. During the course of the trial, prior to the presentation of the witnesses for the Defense, the prosecutors, Ms. Licha Nyiendo and Mr. Robert Capers, without any authorization, interviewed and threatened my witness, Mr. Rojas. The above-named prosecutors threatened Mr. Rojas with the filing of drug charges against him, if he testifies for the Defense. It appears that, the badgering and intimidation of my potential witness is an illegal tactic used by these prosecutors to prevent me from receiving a fair trial. Furthermore, it appears that said prosecutors' actions violated my right to Due Process. It also appears that, the prosecutors' illegal tactics were highly prejudicial to my case and, as a direct result of these illegal actions, I was found guilty of a crime that I did not commit.

To facilitate the Court's investigation of the complained due process's violations, I am providing the following background information: The Court records will reflect that, on or about the month of May of 2007, while represented by Court-appointed attorney, Richard Rosenkraz, Esq., I was arraigned before your Honor for the reading of the above-mentioned charges. At that time, Defense counsel, Rosenkraz, requested Your Honor to allow the bringing of Mr. Thomas Rojas to testify in court. At that time, Mr. Thomas Rojas was incarcerated at the FCI located in Fort Dix, New Jersey. At this time, it is important to emphasize that, Mr. Rojas is a family member (cousin) of Wilber Gaces, one of the murder victims of September 26, of 2000. As you might realize, Your Honor, said family relationship makes Mr. Rojas a very important witness for the Defense. The record will also reflect that, a Beeper was found in possession of Mr. Wilber Gaces (one of the victims) the night of the murder. The records also reflects that, after a close examination of the Beeper at that time, said Beeper reflected recent phone-calls made from the home phone number of Mr. Thomas Rojas. Right after the murder, Mr. Rojas was arrested and interrogated as a suspect of said murders; and during the course of said interrogation, it was discovered that Mr. Rojas and Mr. Wilber Gaces were in fact cousins. The record will also reflects that, at the time when Mr. Rosenkraz requested the Court to allow the bringing of Mr. Thomas Rojas to testify for the defense--on May of 2007--, the prosecutor, Ms. Licha Nyiendo, opposed Mr. Rosenkraz's request. Said Prosecutor argued that, the murder happened in the year 2000, and that, seven years had past since the murder; and therefore, Mr. Rojas would not remember everything that occurred during the time of the murders. There is no statute of limitation for a murder! At the time, Your honor ruled that my lawyer, Mr. Rosenkraz, could go to FCI Fort Dix and interview Mr. Rojas and, if Mr. Rosenkraz finds that, Mr. Thomas had a substantial testimony that could help in my defense, Mr. Rosenkraz was to inform Your Honor so that Your Honor could

authorize a transfer of Mr. Rojas so he could go to Court and, personally, present his testimony before Your Honor in this case. At the time of said request, Mr. Rosenkraz also brought to Your Honor's attention that, Mr. Rojas was about to be released from prison soon after serving time on different charges; and that Mr. Rojas was going to be transferred to the Department Of Immigration so that he could be deported back to Colombia.

At this time, It is also important to emphasize that, it was on a Friday when Your Honor determined that Mr. Rosenkraz was to visit Mr. Rojas the following Monday. Unfortunately, after such short notice, attorney, Rosenkraz, could not make it to see Mr. Rojas on the following monday . Instead, I was sent in front of a new Magistrate who informed me that the charges pertaining to the murder case were going to be dropped. The Honorable Magistrate ordered that I be handed over to the I.C.E jurisdiction because my sentence time was up.

It is also important to point out to Your Honor that, it appears that the prosecutor's actions at the time (false droping of charges) were intended to prevent my Mr. Rosenkraz from having the opportunity to speak to Mr. Thomas Rojas and, at the same time, to prevent Mr. Thomas Rojas from presenting his testimony in court, which, without a doubt, would have discredited the government's version of the events that led to the murder of Mr. Wilber Garces (Mr. Rojas's cousin). It is also important to point out that, Mr. Rojas was almost done serving his prison time and, the prosecutors were well aware of such information.

TO: 66972004
 SUBJECT: EXHIBIT "S-1" SEGUNDA PAGINA
 DATE: 1/22/2011 8:05:32 PM

The prosecutor's pre-conceived plan to prevent Mr. Thomas from testifying worked just fine for the government because, once Mr. Rojas was deported back to Colombia, the prosecutor brought me back to court on the same murder charges after I was held by immigration for over three months.

The prosecutor's excuse for bringing back the murder charges was that, they found a beeper number (917-366-4241) connected with the investigation of the case. However, the prosecutors were well aware that such beeper belonged to Mrs. Linder Medina (a/k/a Claudia); and that, years before of the bringing of the murder charges, I had already cleared up, during the course of a Safety Valve hearing, to whom said beeper belonged. When my attorney questioned the prosecutor regarding such excuse for bringing back the murder charges, the prosecutor told my lawyer that, she had nothing to do with such decision and with what was happening to me; that the decision to bring me back on the same murder charges the Magistrate dropped was made by Mrs. Licha Nyiendos' boss. Now, after such illegal manipulation of the legal system and my re-arrangement on the same murder charges, the prosecutor could continue the case without having Mr. Rojas's testimony in behalf of the defense. Knowing that Mr. Rojas is the only person that could exonerate me of the charges and discredit the lies and made up stories that, eventually, Mr. Carlos E. Medina (Government's star witness) presented in court.

The Court records will also show that, Your Honor appointed a private investigator to this case, Mr. Angel Torres. My family also hired a private investigator, Mr. William Acosta, to work together and find Mr. Thomas Rojas who had been deported back to Colombia. The intent was to find Mr. Rojas, and to have him sign an affidavit that could be presented in court (before Your Honor) so that Your Honor could give Mr. Rojas the opportunity to testify in the Eastern District Court. Mr. Rojas did complete and signed the affidavit swearing that, the testimony he was going to give in court would be the truth about the people involved in the murders of his cousin, Mr. Wilber Gaces, and Mr. Edgardo Bryan. But the prosecutor did not wait until Mr. Rojas was brought back into the United States. Instead the prosecutor, without given prior notification to my attorney, Mr. Rosenkraz, went to Colombia accompanied by Law Enforcement Agents. In Colombia, the prosecutor had Mr. Rojas convinced that they were there in search of justice; and they interrogated Mr. Rojas without a lawyer being present. The prosecutor did not tape-record nor videotaped said interrogation which lasted, approximately, two days. Mr. Rojas did not sign any documentation pertaining to this interrogation. The prosecutor's only purpose was to go to Colombia to manipulate the evidence presented by Mr. Rojas in his affidavit. After returning to court, the prosecutors claimed that Mr. Rojas was a liar; and that his testimony was based on rumors. A copy of the Government's version of the interrogation of Mr. Rojas in Colombia presented in court was sent to Mr. Rojas in Colombia.

After reading the government's version of the interrogation, Mr. Rojas was so surprised by the fabrication and twisting of his testimony that, at the time, it gave him the desire to come into the United States so that he could present to the Court the truth of his testimony and to discredit the Government's fabricated version of his alleged testimony. But there was only four days left in the trial; and the prosecutor did not transact the documents needed to bring Mr. Rojas to trial. The Court Records will reflect that, at the time, Your Honor asked the prosecutor, Mrs. Licha Nyiendo, if she had done everything in her power to get Mr. Rojas back into the United States. Mrs. Nyiendo's answer was "no". The Court Records will also reflect that, at that time, Your Honor pointed out to the prosecutor that, with all the resources provided to them, Your Honor could not believe that the prosecutor could not complete such a small task (the task was to provide Mr. Rojas with a passport). At that time, Your Honor asked Mr. Rosenkraz as to whether or not my family in Colombia would provide Mr. Rojas with the money needed to acquire a passport. This way Mr. Rojas would be able to present himself in the Eastern District Court and testify. After my family provided the money to Mr. Rojas for the passport, a permit was approved for Mr. Rojas to travel to the United States.

After landing in New York, Mr. Rojas was picked up by some agents, handcuffed and treated like a regular criminal as he was being transported from the airport to a Hotel. While in transit to the hotel, the agents urged Mr. Rojas not to testify. In the Hotel, the agents continued Mr. Rojas in handcuffs. And shortly after, Mr. Rojas was visited by prosecutor, Mr. Robert Capers. At that time, Mr. Capers warned Mr. Rojas that, if he testified, the prosecutor was going to bring charges against him because, according to said prosecutor, Mr. Rojas would not tell the truth during his testimony in court. Mr. Capers stood over twenty minutes at the Hotel intimidating Mr. Rojas and telling him that, there was still time to back out and to refuse I believe this is an interference of my constitutional rights to testify for the defense. Again and again, Mr. Rojas was warned that, if he continue insisting in testifying for the defense, the next day, he was going to receive a visit from a lawyer to represent him because, the prosecutor was going to bring him up on charges. Your Honor, at this time is important to point out that, all translation from English to Spanish was done

by one of the agents of the agents holding Mr. Rojas in custody. Your Honor, at this time, I would like to know whether or not the Government's conduct constitutes an interference to my Constitutional right to Due Process. Mr. Rojas did not stand a chance against the prosecutor.

In addition to the above described Government's actions, I would like to also bring to Your Honor's attention the fact that, the government retained and failed to provide my attorney with all of the "Rule 3500 material," and with a copy of the Government's interview (conducted by a Government's Investigator) of Mr. Douglas Gurut (A.K.A. Ronnie Chavez) and of Mr. Joseph Orejuela (A.K.A. Tabla) (Mr. Gurut and Mr. Orejuela are currently incarcerated in the federal prison system on other non related charges). The importance of the content of said interview is because, at trial, the Government's Star Witness, Mr. Carlos Medina, testified that, I hired him to murder both Mr. Gurut and Mr. Orejuela; and that, to identify them, I handed Mr. Carlos Medina a picture of Mr. Douglas Gurut (A.K.A. Ronnie Chavez) and of Mr. Joseph Orejuela (A.K.A. Tabla); that, in the picture, Mr. Orejuela was on top of a four wheeler and Mr. Gurut was standing next to him in Miami beach Florida. Mr. Medina also stated that I wanted Mr. Gurut and Mr. Orejuela killed because they stole 316,000 U.S dollars back in 1998. Mr. Medina went on to say that, I wanted Mr. Gurut and Mr. Orejuela killed back in the year 2000.

TRULINCS 66972004 - POLANCO, GERMAN DARIO - Unit: BRO-E-A

TO: 66972004
SUBJECT: EXHIBIT "S-1" TERCERA PAGINA
DATE: 1/22/2011 8:04:31 PM

However, the government did not call Mr. Gurut or Mr. Orejuela to testify at the trial because, during the course of the interview conducted by the Government's Investigator, both individuals indicated that they did not know me personally. A private Investigator hired by my family, Mr. William Acosta, interviewed Mr. Joseph Orejuela and during the course of the interview, he discovered that Mr. Orejuela has been incarcerated since 1994 for more than 30,000 kilos of cocaine. The question here is: How could he have worked for me in the year 1998 if he has been incarcerated since 1994? According to the Private Investigator, Mr. William Acosta, Mr. Orejuela is a caucasian male who is over 70 years old and was never on a four wheeler in Miami Beach like Mr. Carlos Medina had testified during my criminal trial.

According to Private Investigator, William Acosta, during the course of the interview of Mr. Gurut, he discovered that, the Government had offered to release Mr. Gurut from jail, bring his wife and daughter from Colombia, and offered the opportunity to live in the United States if Mr. Gurut would agree to testify against me in court. In response to the Government's offer, Mr. Gurut told the government that he would not perjure himself in court because he did not know who I was. Your Honor, at this time, it is important to emphasize that, Mr. Gurut is a male Hispanic, approximately six feet in height and, according to Mr. Acosta (the investigator), Mr. Gurut is about forty to forty-five years of age. The government's Star witness, Mr. Medina, testified that the wrong targets were killed. The targets that were killed were two male blacks, one who had corn braids and they were significantly younger (one of the victims was a teenager). Had the Government provided a copy of the interview conducted by the Government's investigator of Mr. Gurut and of Mr. Orejuela, my attorney would have had the opportunity to call these individuals to the Stand for the Defense and, they would have denied all the lies and fabrications of the government's "key" witness, Mr. Medina. These individuals' testimony would have showed that Mr. Medina's fabricated story was done so that he can receive a 5K1 letter from the government.

Your Honor, what I am trying to make reference to is the victims complexion and their age differences. The Government has no excuse for failing to call Mr. Gurut and Mr. Orejuela to testify for the Government to prove the Government's theory of the case. The Government has no excuse either to justify the age confusion of the victims. Furthermore, how could both victims that I allegedly sent to be killed still be alive? Why didn't the government bring Mr. Gurut and Mr. Orejuela to testify against me if we were once considered friends. I am sure that, it is very possible for the government to transfer two Federal inmates to testify in court. Yet the government not only did not allow Mr. Gurut and Mr. Orejuela to testify, but the Government withheld the evidence of the interviews of said individuals. Lastly, the government gave my attorney very brief information of the testimonies of 4 Colombians the government interviewed back in the year 2005. However, the documents were handed out to my attorney at the beginning of trial.

For such reasons, it appears that, the Government's tactic was intended to limit the time available in order to prevent my attorney, Mr. Rosenkraz, from interviewing the 4 Colombians.

In closing, Your Honor, I would like to inform you that, I have documented proof as well as audio recordings of all the issues presented in this letter. You Honor, what I am respectfully asking is that, based on the foregoing, this Court determine whether or not I received a fair trial, and whether or not I can have the opportunity to properly defend myself in your courtroom under these circumstances. Your Honor, I want to sincerely thank you for your valuable time.

Respectfully submitted,

German D. Polanco

2 file
January 20, 2011

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES

Vs

GERMAN DARIO POLANCO

CR - 07 - 780 (DGT)

DEFENDANT

GERMAN D. POLANCO
Ref; No 66972 - 004
M.D.C. Brooklyn
P.O Box, 329002
Brooklyn, New York 11232

SUBPOENA

Mr. TOMAS ROJAS BERMUDEZ
Buenaventura Colombia
Phone nomber the Rojas
(01157316) 6298581
Investigator -William Acosta
have conct information
the Tomas Rojas Bermudez.
Investigator phone(347)7238496

Now comes German Dario Polanco a defendant federal prisoner pro-se and moves the court to subpoena a Mr. Thomas Rojas Bermudez (aka Francisco Solis), to testify to the facts in this case proof of Ex culpatory Material that is parr of the court record which to date has been illegally withheld Defendant further request that the court order Thomas Rojas Bermudez to court at the earliest possible date on the court calender.

Respectfully Submitted

German Dario Polanco

Certificate of service
court clerk
add
AUSA
Address